

REMARKS

Claims 1-29 are pending in the application before entry of this amendment. By way of this amendment, original Claim 1 has been canceled and a new Claim 1 added per the Office's objection to formatting and Claims 15-18 are canceled. No new matter has been added.

Section 103(a) Rejections Overcome

Claims 1-29 have been rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Roediger (USP 6,622,887).

Additional references cited by examiner US5,943,241

Applicant respectfully traverses each and every aspect of this rejection.

In regard to the Examiner's rejections to Claims 1-14 and 19-20, Applicant's claimed invention relates to a hand-held dispenser for dispensing a multiplicity of unit products having a storage area for storing the unit products, an outlet opening through which the unit products are dispensable from the dispenser, a dispensing mechanism actuable to dispense the unit products through the outlet opening, and a dispensing indicator for indicating the number of unit products left in, or dispensed from, the dispenser, the dispenser indicator being integrated with the dispensing such that it is automatically updated in response to the dispensing of the unit product therefrom. This is in clear contrast to Roediger, whose "... medicine dispenser ... being adapted to rest upon a surface ..." (see column 2, lines 66-67) while Applicant's device is a hand-held dispenser. For example, Applicant's dispenser can be activated by means such as which of pressing the dispenser against a user's palm to "blot" out a pill therefrom. There is no suggestion, motivation or teaching in Roediger to use Roediger's device as a hand-held dispenser which, if attempted would serve to make Roediger inoperable if indeed used as a hand-held device as the unit products would no longer be within the device and hence would no longer serve as a dispenser.

If Roediger was operated as a hand-held dispenser all medications present in the device would be emptied out of Roediger's device via "a hopper having an open top" (see column 3, line 18) thus making Roediger device non-functional. Further, as Roediger uses an open hopper format, and thus there is no control over the number of pills present in said hopper, there could be no indication of the number of unit products left in the hopper and subsequently no graphical way to represent this with numerical indicia by means of an electronic display or electronic indicator or where the dispensing indicator is a dispenser counter. There is no suggestion, motivation or teaching in Roediger to use have a dispenser which would serve to indication of the number of unit products left in the hopper and subsequently no graphical way to represent this with numerical indicia by means of an electronic display or electronic indicator or where the dispensing indicator is a dispenser counter.

As Roediger does not teach, suggest or motivate the use of a dispensing indicator, Applicant's further recite the use of a dispensing indicator which is operatively coupled to the dispensing mechanism such that the indicator is updated in response to actuation of the dispensing mechanism. Applicants cite *In re Bausch & Lomb*, 796 F.2d 443, 230 USPQ 416 (CCPA 1986) "It is impermissible within the framework of section 103 to pick and choose from any one reference only so much of it as will support a given position to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one skilled in the art." The coupling of said dispensing indicator and dispensing mechanism can be via a detector, which is adapted to detect actuation of the dispensing mechanism, when said detector responds to the dispensing of unit products from the outlet opening. This functionality can be achieved by means of an electronic display wherein the dispensing indicator has an electrical control circuit display wherein the dispensing indicator has an electrical control circuit for controlling the display and the detector(s) is a trigger(s) for the circuit. For example, said trigger is a switch and said dispensing

mechanism is adapted to operate the switch when activated and said switch is positioned so as to be operated by the unit products(s).

In regard to the Examiner's rejections of Claims 21-29, Applicant's hand-held dispenser embodies a dispenser wherein the storage area is provided in a first dispenser part and the dispensing indicator and outlet opening are provided in a second dispenser part attached to the first dispenser part. Roedinger's "... dispensing apparatus generally comprises a first housing member, ..., a second housing member ..." and "... a storage hopper" (see column 2, lines 66-67 and column 3 lines 8 and 18) and thus has three distinct parts and is intended "rest upon a surface." (see column 2, line 67). There is no teaching, suggestion or motivation for one skilled in the art to modify Roedinger's device to be a hand-held unit wherein the dispensing mechanism is provided in the second dispensing part, Roedinger's second housing member or to make the 2 housing members of Roedinger releasably attached. Further, it would be improbable to suggest that Roedinger's device would have a closure which is selectively connectable with the first and second dispenser parts to respectively close the access opening and outlet port as the interface between Roedinger's first and second body member and first body member and hopper are not interchangeable, both able to be capped, co-operable connecting structures, or reasonably the same.

Conclusion

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge any fees or credit any overpayment, particularly including any fees required under 37 CFR Sect 1.16 or 1.17, and any necessary extension of time fees, to deposit Account No. 07-1392.

Applicants respectfully submit that the instant application is in condition for allowance, which action is respectfully requested. The Examiner is invited to contact the undersigned at (919) 483-9995, to discuss this case, if desired.

Application No.: 10/561,375
PB60389CUSw

Respectfully submitted,

/Dwight S. Walker/
Dwight S. Walker
Agent for Applicant
Registration No. 63,170

Date: November 21, 2008
GlaxoSmithKline Inc.
Five Moore Drive, PO Box 13398
Research Triangle Park, NC 27709
(919) 483-9995
fax: (919) 315-4032
dwight.s.walker@GSK.com